

Must VoIP Service Providers Collect and Remit Universal Service Fees to California?

Answer: No.

Universal service contribution requirements for Voice over Internet Protocol (VoIP) providers are different under Federal and California rules. Under the Federal system, VoIP providers are required to contribute. Under California rules, however, these providers at this time are not required to contribute to California specific universal service programs.

Reason: The Commission has not exercised jurisdiction of VoIP providers to date.¹

The FCC established universal service contribution obligations for providers of interconnected VoIP service.² Under these obligations, VoIP service providers are required to collect and remit fees utilizing either the “safe harbor” or an alternative traffic study determined percentage.³ In contrast, the CPUC has not required VoIP providers to register with the CPUC or to obtain a Certificate of Public Convenience and Necessity (CPCN), and therefore these companies do not receive a registration or utility number. Some VoIP providers previously obtained a CPCN or registered with the CPUC as CLECs, and consequently, those providers possess a registration or utility number. Among the group of VoIP service providers holding a registration or utility number, some companies voluntarily collect universal service surcharges and fees and remit them to the CPUC. For these carriers, the Commission is able to apply the surcharge/fee revenues to the appropriate programs. However, without a utility or registration number on file with the CPUC, any remittances for universal service programs would have to be returned, or would escheat to the state.

¹ *Order instituting Investigation on the Commission’s Own Motion to Determine the Extent to Which the Public Utility Telephone Service Known as Voice over Internet Protocol Should be Exempted from Regulatory Requirements*, Decision No. 06-06-010, *Order Closing Proceeding* (Cal.P.U.C. June 15, 2006); in D.06-06-010, the CPUC determined that it was premature to establish any regulatory status for VoIP providers. [The deleted statement is not entirely accurate, and in any event, is unnecessary.]

² *In the Matter of Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format; IP-Enabled Services*, 21 FCC Rcd 7518 (2006) (USF Report). See also 47 C.F.R. § 9.3 (defining interconnected VoIP service). See also 47 C.F.R. § 54.706 (a).

³ USF Report at ¶ 16. 47 C.F.R. § 54.706 (a)(18); “Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support mechanisms.” See also 47 U.S.C. § 254(b).